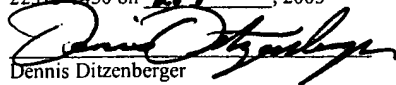
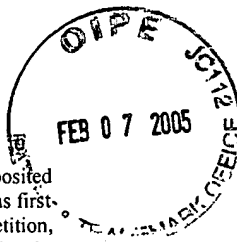


Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as first-class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 2/4, 2005


Dennis Ditzenberger



CUSTOMER NUMBER

24024

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Fought	:	Examiner:	A.M. M. Boehler
		:		
Serial No.:	10/044,826	:	Art Unit:	3611
		:		
Filed:	October 19, 2001	:	Confirmation No.:	8055
		:		
For:	WHEELCHAIR SUSPENSION	:	Attorney Docket No.:	12873/04233
	HAVING PIVOTAL MOTOR	:		
	MOUNT	:		

Mail Stop Petition
Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

TRANSMITTAL

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FEB 14 2005
GROUP 3600

Please find enclosed the following documents:

- 1) Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181 (2 pages)
- 2) Statement of Facts Under 37 CFR 1.8(b)(3) Regarding The Request to Consider Reply to Office Action to be Timely Filed Under 37 CFR 1.8(b) (3 pages)
- 3) Copy of Second Request Under 37 CFR 1.8(b) mailed August 12, 2004 along with copy of return receipt postcard (4 pages)
- 4) Copy of First Request Under 37 CFR 1.8(b) mailed January 15, 2004 along with copy of return receipt postcard (3 pages)

- 5) Copy of facsimile transmitted correspondence of October 29, 2003 along with copy of United States Patent and Trademark Office auto-reply facsimile transmission confirming receipt (14 pages)

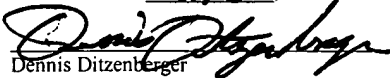
Respectfully submitted,

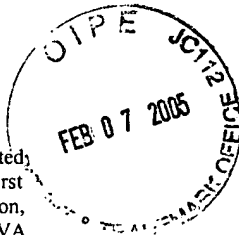
Date: Feb 4, 2005

By: Nenad Pejic
Nenad Pejic(Reg. No. 37,415)
Calfee, Halter & Griswold LLP
800 Superior Avenue
Cleveland, Ohio 44114-2688
(216) 622-8835

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Dennis Ditzinger



CUSTOMER NUMBER

24024

13/Reg for Reem
J.D. Smith
4/3/15

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	Fought	:	Examiner:	A.M. M. Boehler
Serial No.:	10/044,826	:	Art Unit:	3611
Filed:	October 19, 2001	:	Confirmation No.:	8055
For:	WHEELCHAIR SUSPENSION HAVING PIVOTAL MOTOR MOUNT	:	Attorney Docket No.:	12873/04233

**STATEMENT OF FACTS UNDER 37 CFR 1.8(b)(3) REGARDING THE REQUEST
TO CONSIDER REPLY TO OFFICE ACTION TO BE TIMELY FILED UNDER
37 C.F.R. §1.8(b)**

Mail Stop Petition
Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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FEB 14 2005

GROUP 3600

Dear Sir:

The Office held the above-identified application abandoned for failure to timely file a reply to the Office Action mailed on April 29, 2003. Applicant submits that a proper reply was transmitted in accordance with 37 CFR 1.8(a) on October 29, 2003 and requests the Office to consider the reply as timely filed as all requirements of 37 CFR 1.8(b) have been previously met or are met herein. In response to the Decision on the Petition mailed January 19, 2005, I, Nenad Pejic, the individual who signed the Certificate of Facsimile, make the statement of fact below attesting to my personal knowledge of transmitting the original response on October 29, 2003.

1. I, Nenad Pejic, attest that a proper reply to the April 29, 2003 Office Action was transmitted to the Office on October 29, 2003. As evidence of this transmittal, Applicant has included a copy of the original response bearing a Certificate of Facsimile signed by me, Nenad Pejic. As further evidence of this transmittal, Applicant has included a copy

of the Auto-Reply Facsimile Transmission from the United States Patent and Trademark Office indicating that 13 pages were received on October 29, 2003. I attest to my personal knowledge of transmitting the 13 pages enclosed herein on October 29, 2003 and signing the Certificate of Facsimile.

2. Applicant informed the Office of the previous transmission of the correspondence promptly after becoming aware that the Office had no evidence of receipt of the correspondence. On November 18, 2003, Examiner Boehler issued a notice of abandonment indicating that no reply to the April 29, 2003 Office Action was received. On November 24, 2003, I discussed the notice of abandonment with Examiner Boehler during a telephone conference. I indicated to the Examiner that a response to the Office Action was faxed to the United States Patent and Trademark Office on October 29, 2003 and that an Auto-Reply Facsimile Transmission confirmed the United States Patent and Trademark Office's receipt of the response. Examiner Boehler indicated that she would conduct a search for the missing response. On December 2, 2003, Examiner Boehler indicated to me during a telephone conference that she was unable to locate the October 29, 2003 response.
3. On January 15, 2004, Applicant sent a request under 37 CFR 1.8(b) to consider reply to the office action to be timely filed. The request included a copy of the previous transmitted correspondence of October 29, 2003. In addition, the Applicant attested that a proper reply to the April 29, 2003 Office Action was transmitted to the Office on October 29, 2003. As evidence of this transmittal, Applicant included a copy of the Auto-Reply Facsimile Transmission from the United States Patent and Trademark Office indicating that 13 pages were received on October 29, 2003. A receipt postcard for this request under 37 CFR 1.8(b), stamped by the USPTO and dated January 20, 2004, was received by Applicant on January 26, 2004. As evidence of this mailing, Applicant has included a copy of the front and back of the stamped and returned receipt postcard.
4. On August 6, 2004, Applicant became aware that the January 15, 2004 request under 37 CFR 1.8(b) to consider reply to the office action to be timely filed, although received by the USPTO, does not appear in the application file. An online search using the United

States Patent and Trademark Office's Patent Application Information Retrieval database indicated that the application status remained "Abandoned -- Failure to Respond to an Office Action."

5. On August 10, 2004, Agent Pribisich discussed the status of the application with Examiner Boehler during a telephone conference. It was confirmed that the status of the application was "Abandoned -- Failure to Respond to an Office Action."
6. On August 12, 2004, Applicant sent another request under 37 CFR 1.8(b) to consider the reply to the Office Action to be timely filed. This petition was dismissed in the Decision on Petition to Withdraw the Holding of Abandonment mailed January 19, 2005 because it did not include a statement under 37 CFR 1.8(b)(3) made by the person who signed the Certificate of Transmission of the reply mailed October 29, 2003.

This statement of facts made by the person who signed the Certificate of Transmission of the response of October 29 should satisfy the final requirement under 37 CFR 1.8(b). Accordingly Applicant respectfully requests that the Office consider the replay as timely filed under 37 CFR 1.8(a). Applicant does not believe any fee is associated with a request under 37 CFR 1.8(b). If this is not the case, the Patent Office is hereby authorized to charge any related fee to Deposit Account No. 03-0172. If there are any questions regarding this Petition, please telephone the undersigned.

Respectfully submitted,

Date: Feb. 4, 2003

By: Nenad Pejic
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